

GUIDE 1: HOUSING ACT TENANTS REQUESTING REPAIRS

This document is a guide for what to do if you need Housing ACT to repair any damage or defects in the house you live in.

1. WHAT ARE MY AND HOUSING ACT'S RIGHTS AND RESPONSIBILITIES?

When you live in a Housing ACT property, you enter into a 'residential tenancy agreement' (sometimes called a 'rental agreement' or 'lease') with Housing ACT. That agreement, together with ACT law (in particular, the *Residential Tenancies Act 1997*) [RTA], sets out your and Housing ACT's rights and responsibilities.

From the start of your tenancy, Housing ACT has to make sure that the property (including any yard) is:

- a) fit for you to live in;
- b) reasonably clean;
- c) in a reasonable state of repair; and
- d) reasonably secure.

Housing ACT then has to make sure it *maintains* the property in a reasonable state of repair, considering the condition of the property when you moved in. You should report the need for repairs to Housing ACT as soon as possible, because it is only when Housing ACT is notified that it is legally required to complete the repairs.

The law and the agreement also require that you not deliberately or carelessly damage the property, and that you must take reasonable care of it, including ensuring that it remains clean. You must also *continue to pay rent* regardless of whether Housing ACT has fulfilled their responsibilities.

2. WHAT TYPES OF REPAIRS DO I HAVE TO ARRANGE AND PAY FOR MYSELF?

ACT law does not require Housing ACT to fix everything. Housing ACT does not have to pay for those repairs you are expected to do yourself (for example, changing a light bulb or replacing the battery in a smoke alarm). Also, you are responsible for any damage deliberately or carelessly caused by you.

Housing ACT is also not required to make new additions or improvements to the property. For example, while Housing ACT may be responsible for fixing damage to a shed on the property (which are repairs), it is not required to erect a new shed at your request if the property did not already have a shed (which would be an improvement).

3. WHAT TYPES OF REPAIRS WILL HOUSING ACT ARRANGE AND PAY FOR?

There are two types of repairs Housing ACT can be required to make: non-urgent repairs and urgent repairs.

Non-urgent repairs

Housing ACT must complete non-urgent repairs within *4 weeks of being notified by you of the damage or defect*. Non-urgent repairs are repairs that do not have a significant impact on your ability to live in the premises. These might include defects to an air conditioner or garage door, a shower with decreased water pressure, or damage to a storage shed.

Urgent repairs

If you believe a repair is urgent, then you must notify Housing ACT as soon as possible. Housing ACT will then be required to complete those repairs as soon as necessary, depending on the type of damage or defect. Below is a list of example defects requiring urgent repairs:

- a) broken water service;
- b) blocked or broken toilet system;
- c) serious roof leak;
- d) gas leak;
- e) dangerous electrical fault;
- f) flooding or serious flood damage;
- g) serious storm or fire damage;
- h) failure of gas, electricity or water supply;
- i) failure of a refrigerator supplied with the property;
- j) failure or breakdown of any service essential for hot water, cooking, heating or laundering;
- k) fault or damage that causes the property to be unsafe (for example, failure of a security system);
- l) fault or damage likely to cause injury to person or property; and
- m) serious fault in any door, staircase, lift or other common area that affects access to the property.

4. I NEED URGENT REPAIRS. WHAT SHOULD I DO?

1. Contact Housing ACT immediately to request repairs

For urgent repairs, you should urgently call Housing ACT on their maintenance issues line: **6207 1500**. Remember, if the repair is urgent, *you are legally required to contact Housing ACT as soon as possible*.

2. If Housing ACT does not do the repairs promptly, contact Canberra Community Law

If Housing ACT fails to do the urgent repair work within a reasonable time, you can either:

- a) apply to the ACT Civil and Administrative Tribunal (ACAT) for an order requiring Housing ACT to complete the repair work; or
- b) arrange for the repairs yourself up to the value of 5% of the rent you would pay in one year. If you take this option, *you must complete the works using the tradesperson nominated by Housing ACT*, and Housing ACT will bear the cost. This is a complicated process and we strongly recommend that you obtain specific legal advice about pursuing this option before doing so.

If you would like to apply to ACAT, we recommend that you consult our guide 'A Guide for Housing ACT Tenants on Applying to ACAT' available online: www.canberracommunitylaw.org.au/fact-sheets-brochures/public-housing-fact-sheets

5. I NEED NON-URGENT REPAIRS. WHAT SHOULD I DO?

1. Contact Housing ACT to request repairs

Even if the repairs are non-urgent, you should contact Housing ACT as soon as possible, because this "starts the clock" on the 4 week period in which Housing ACT must do the repairs.

You can request non-urgent repairs online: www.communityservices.act.gov.au/hcs/housing-maintenance-request

If you cannot complete the online request form, contact Housing ACT on their maintenance issues line: **6207 1500**. The line is open 24 hours a day, 7 days a week.

2. If Housing ACT does not do the repairs within 4 weeks, send a 'notice to remedy'

Housing ACT must fix the issue within 4 weeks of you informing them. If Housing ACT does not fix the problem within 4 weeks, then they are breaching (not following) your agreement. In this case, you may give Housing ACT a 'notice to remedy' their breach, which gives Housing ACT a final, reasonable period of time to undertake the repairs.

There is a *'Form of Notice to Remedy for Non-Urgent Repairs'* **attached to this guide below.**

3. If Housing ACT still has not done the repairs, apply to ACAT

If Housing ACT does not do the repairs within the time period set out in the notice to remedy, you may apply to ACAT for an order requiring Housing ACT to do the repairs.

If you would like to apply to ACAT, we recommend that you consult our guide 'A Guide for Housing ACT Tenants on Applying to ACAT' available online: www.canberracommunitylaw.org.au/fact-sheets-brochures/public-housing-fact-sheets

If you would like to discuss this guide, please **contact our Housing Law service on 6218 7977.**

Disclaimer

This guide contains general information available at the time of publication. It does not constitute legal advice. If you have a specific legal problem, please contact Canberra Community Law's advice line on 02 6218 7977.

Canberra Community Law is entirely independent of Housing ACT. All assistance is free.

September 2018

FORM OF NOTICE TO REMEDY FOR NON-URGENT REPAIRS

*If Housing ACT has taken more than 4 weeks to make non-urgent repairs to your property,
use this form to send a notice to remedy*

.....
date of the letter

Commissioner for Social Housing (**Housing ACT**)
Locked Bag 3000
Belconnen ACT 2616

NOTICE TO REMEDY BREACH OF RESIDENTIAL TENANCY AGREEMENT FOR

.....
property address

On I notified Housing ACT that:
date you first requested repairs

.....
short description of the damage/defect

and that I required non-urgent repairs to the Property. The defects requiring repairs were not caused by me.

As of today, the requested repairs have not been done and more than 4 weeks have now passed since my first request for repairs. Accordingly, Housing ACT has breached its obligations under our Residential Tenancy Agreement. Housing ACT must remedy these breaches by completing the requested repairs within of the date of this letter.

number of days (usually 7 or 14 days, depending on the situation)

If your breach is not fixed within that time, I reserve my rights under the Agreement and the *Residential Tenancies Act 1997* (ACT), including my rights to make an application to the ACT Civil and Administrative Tribunal seeking appropriate orders.

You can contact me to discuss the repairs, or otherwise discuss this letter, on:

Home/Mobile Phone: Email Address:

Sincerely

.....
signature

.....
name

.....
current address